HONOURABLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

AND

HONOURABLE SHRI JUSTICE G.BHAVANI PRASAD

WRIT APPEAL No. 434 of 2006

Between:

Karu Veerabhadra Rao

…Appellant

And

State of Andhra Pradesh, represented by Authorised

Officer, Land Reforms, Kakinada, East Godavari

District and others

…Respondents.

JUDGMENT

Counsel for the Appellant : Sri K.Srinivasa Varada Chary

Assisted by Ms. C.Janaki

24th April, 2006

Per Sri G.S.Singhvi, CJ

This appeal is directed against order dated 2-3-2006 passed by the learned Single Judge, whereby he dismissed the writ petition filed by the appellant for directing the respondents not to take possession of land measuring Ac.14-94 cents comprised in Survey No. 13/2 of Rajanagaram Village, Addateegala Mandal, East Godavari District.

We have heard learned counsel for the appellant and perused the record.

Although the order under challenge is rather cryptic and it is not possible to decipher the ground which prompted the learned Single Judge to decline the appellant's prayer, but, after carefully scrutinizing the pleadings of the parties, we are convinced that there is no valid ground to entertain the appellant's prayer for protection of his so-called possession over the land in question.

In the affidavit filed by him in support of the writ petition, the appellant averred that the land in question had been taken on lease by his father Valasaiah from Sri Adimulam Bapanaiah in the year 1950 and since then he had been cultivating the land. It was further averred by the appellant that his father had acquired the status of a statutory tenant and being his heir, he was entitled to protection of the tenancy rights. Still further, he averred that he was not aware of the proceedings initiated against the land owner under the Andhra Pradesh Land Revenue (Ceiling on Agricultural Holdings) Act, 1973 (for short, 'the Act') and, therefore, he cannot be deprived of his legitimate right to possess the land.

In the counter filed by Sri M.Satyanarayana, Authorised Officer, Land Reforms, Kakinada it was averred that ceiling case of Adimulam Bapanaiah was decided by the competent authority and Ac.43-97 cents of land was found in excess. However, possession of the surplus land could not be taken, because of interim order dated 17-2-1995 passed in W.P.M.P.No.1225 of 1997 (Writ Petition No. 2871 of 1995). It was further averred that one Sri K.Narayana Rao preferred appeal against the determination of surplus area of Adimulam Bapanaiah, but the same was dismissed by the Land Reforms Appellate Tribunal vide its order dated 9-8-1982. He then filed Civil Revision Petition No. 3256 of 1982, which was allowed by the High Court. After some time, Ganta Subba Rao claiming himself to be a tenant of land comprised in Survey No. 3 and 4 filed petition before the trial Court for grant of injunction. The same was rejected. However in Writ Petition No. 2871 of 1995, this Court passed an interim order. Sri M.Satyanarayana further averred that the revenue records and village account do not disclose the possession of the appellant. For the sake of convenient reference, para 2 to 4 of the affidavit of
Sri M.Satyanarayana are reproduced below:

> 2. "It is submitted that the declarant in the land ceiling case is Adimulam Bapanayya S/o Appalaswamy, resident of Veerabhadrapuram Village of Addateegala Mandal, and the L.C. case No. 269/YLV/75. The excess lands of A/c 43-97 lying in 5 villages could not be taken possession by the Government in pursuance of the Interim Orders of the Hon'ble High Court in W.P.M.P.No.1225/97 dt. 17-02-95 in W.P.No.2871/95. The surplus lands are as follows:

1. Rajanagaram V in Sy.No. 7 & 13/2 14.94

The above village is lying in Addatigala Mandal of Schedule Area of East Godavari District.

It is submitted that, previously one, Sri K.Narayana Rao preferred an appeal claiming to be a tenant for the lands lying in Sl.Nos. 1 and 2 of the above villages, and the LRAT rejected his claim in LRA No. 335/81 dt. 9-8-82. Later, he filed CRP 3256/82 and it was allowed. Against this, the declarant filed SLP 1347/87 in the Hon'ble Supreme Court of India. Secondly, another person Ganta Subba Rao claiming to be a tenant for the lands lying at Sl.No.3 and 4 of the above villages, filed a petition before the Lower Court and the same was rejected by the L.R.T with regards to lands at S.No.5 village, one Karu Veerabhadra Rao filed a W.P.No.2871/95 and obtained Stay Orders in W.P.M.P.No. 3582/95 dt. 17-2-95. Now, the present writ petitioner Datla Bhadra Rao in Writ Petition No. 1060/95 claiming to be a Tribal (Konda Kummara) filed the writ petition stating that he is a statutory tenant from 1970 for which the above persons have already claimed as tenants.

3. It is submitted that the declarant did not mention about the alleged lease in his declaration and the Village Accounts did not disclose that the lands are in possession of tenants. The writ petitioner in the present writ petition claimed that he belongs to Schedule Tribe (Konda Kummara) for which he has to file the recent Caste Certificate issued by the Mandal Revenue Officer, Addateegala.

4. It is also submitted that the subject lands are lying in the village of Addategala Mandal, Scheduled Area (Agency) of East Godavari Dist. The declarant Adimulam Bapanayya belongs to Non-Tribal community. The term "Lease" on which the writ petitioner claiming rights is falls under the definition of 'Transfer' under Section 2 (g) of the A.P.S.A.L.T.R 1/59. Further, all transactions over the immovable properties lying in Schedule Areas are strictly prohibited w.e.f. 3-2-1970 i.e., from the date of implementation of the L.T. Regulations, 1/1970."

The appellant did not file rejoinder affidavit to controvert the aforementioned averments. Therefore, the Court has to proceed on the premise that the land of which the appellant claims to be the tenant was also claimed by K.Narayana Rao. On his part, the appellant did not adduce any tangible evidence to show that his father was inducted as tenant and, after his death, he continued in possession in the capacity of a tenant. Therefore, the learned Single Judge did not commit any error by refusing to entertain the appellant's prayer for regularization of his possession.

Learned counsel for the appellant referred to the lease allegedly executed by Adimulam Bapanaiah in his favour on
3-6-1970, but the same cannot be made the basis for grant of a declaration that he is the statutory tenant of the land owner, because;

(a) the so-called lease deed was not a registered document and;

(b) the tenure of the lease was only for one year, which came to an end on 2-6-1971.

There is one more reason why the appellant's plea to treat him as a statutory tenant of the land owner cannot be accepted. He belongs to non-Tribal community and transfer of land by a Tribal to the non-Tribal is barred.

In the result, the appeal is dismissed.

G.S.SINGHVI, CJ

G.BHAVANI PRASAD, J

GRR

24-04-2006